

Two Speeches ⁹

Made in the

H O U S E O F P E E R S.

The one November 20. 1675.

The other in November 1678.

BY A

PROTESTANT PEER Of the REALM of E N G L A N D.

H A G U E, Printed. 1680.

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PROTESTANT PEER

Of the REALM of

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HAGUE, Printed, 1680.

Egleston

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THE HOUSE OF LORDS

Mr. All is at stake, therefore you must give me leave to speak freely before we part with it. My Lord Bishop of Salisbury is of Opinion, that we should rather appoint a day to consider what to do upon the Petition, than to appoint a day of Hearing; and, my Lord Keeper (for I may name them at a Committee of the whole House) tells us in very eloquent and studied Language, that he will propose us a way, far less liable to exception, and much less offensive and injurious to our own Priviledg, then that of appointing a day of Hearing; and I beseech your Lordships, did you not after all these fine words expect some admirable proposal? But it ended in this, that your Lordships should appoint a day, (nay a very long day) to consider what you would do in it. And my Lord hath undertaken to convince you, that this is your only course by several undeniable reasons, the first of which is, that it is against our Judicature to hear this Cause (which is not proper before us) nor ought to be relieved by us.

16 this my Lords give me leave to answer, that I did not expect from a man professing the Law, that after an answer by order of the Court was put in, and a day had been appointed for Hearing (which by some accident was set aside) and the Plaintiff moving for a second day to be assigned, that ever without hearing the Court on both sides, the Court did enter into the merits of the Cause, and if your Lordships should do it here, in a Cause attended with the circumstances this is, it would not only be an apparent injustice, but a plain subterfuge to accord a point you durst not maintain. But my Lords second reason speaks the matter more clearly, for that is, because it is a doubtful case whether the Commons have not Privilege? and therefore my Lord would have you to appoint a further day to consider of it, which in plain English is, that your Lordships should confer upon your Books, that you conceive upon second thoughts, a doubtful case, for so your

arguing a day will do, and that for no other reason, but because my
 Lordships think it so. I hope will not be a reason to persuade your
 Lordships, since we cannot yet by experience tell what the House
 is capable of thinking your Lordships in the right in any matter a-
 gainst the judgment of the House of Commons; it is too hard a thing
 for the ability of men to change ill habits. But my Lords, the reason is
 the most admirable of all, which he cites unanswerable, viz. That
 your Lordships are all convinced in your own Consciences, that this if
 prosecuted will cause a breach: I beseech your Lordships consider whither
 this argument thus applied would not overthrow the Law of Nature,
 and all the Laws of Right and Property in the World, for it is an argu-
 ment, and a very good one, that you should not stand or insist upon
 claims, where you have not a clear right, or where the Question is not
 of consequence, and of moment in a matter that may produce a danger-
 ous and pernicious breach between Relations, Persons or Bodies Poli-
 tick joyned in interest in high concerns together. So on the other hand
 if the obstinacy of the party in the wrong shall be made an unanswer-
 able argument, for the other party to recede and give up his just right,
 how long shall the people keep their Liberties, or the Princes the Go-
 vernors of the World their Prerogatives. How long the Husband main-
 tain his Dominion, or any man his property, from his friends or neigh-
 bours obstinacy. But my Lords, when I hear my Lord Keeper open
 so eloquently the fatal consequences of a breach, I cannot forbear to
 fall into some admiration how it comes to pass, that if the Consequen-
 ces be so fatal, the Kings Ministers in the House of Commons (of which
 there are several that are of the Cabinet, and have daily resort to His
 Majesty) and have the Direction and Trust of His Affairs. I say that
 none of those should press the consequences there, or give the least stop
 to the Career of that House in this business, but all the Votes concern-
 ing this affair, nay even that Vote that no Appeals from any Court of
 Equity is cognizable by the House of Lords, should pass *without contradi-*
ction, and yet all the great Ministers with us here, the Bishops and
 other Lords of greatest dependance upon the Court contend this point,
 as if it were *pro aris & foveis*. I hear His Majesty in Scotland hath been
 pleased to Declare against Appeals in Parliament, and I cannot much
 blame the Court, if they think (the Lord Keeper and the Judges being
 of His Majesties making, and of his Power to change) that the Justice
 of the Nation is safe enough, and I my Lords may think so too (during
 this Kings time) though I hear Scotland (not without reason) com-
 plain already, yet how future Princes may use this Power, and how

Judges may be made (not men of Ability and Integrity) but men of Relation and dependance, and who will do what they are commanded, and all mens Causes come to be Judged, and Estates disposed of as Great men of the Court please. My Lords, the constitution of our Government hath provided better for us, and I can never believe so wise a Body as the House of Commons will prove that foolish woman which pulls down her house with her own hands.

My Lords, I must presume in the next place to say something to what was offered by my Lord Bishop of Salisbury (a man of great Learning and Ability) and always vers'd in a closer and stronger way of reasoning, than the business of that Noble Lord I answered before, did accustom him to, and the Reverend Prelate hath stated the matter very fair on Two Heads.

The first is, whether hearing of Causes and Appeals, and especially in this point where the Members have privilege, be so material to us, that it ought not to give way to the reason of State, and greater Affairs that press us at this time.

The second was, if this business be of that moment, yet whether the appointing a day to consider of this Petition, would prove of that consequence and prejudice to our Cause. My Lords, to this give me leave in the first place to say, that your Matter is no less than your whole Judicature, and your Judicature is the Life and Soul of your Dignity and Peer Right of *England* you will quickly grow burdensome, if you grow useless, you have now the greatest and most useful ends of Parliament principally in you, which is not to make new Laws, but to redress grievances, and to maintain the old Land mark. The House of Commons business is to complain, your Lordships to redress, not only from them that are the Eyes of the Nation, but all other particular persons that Address to you. A Land may groan under a multitude of Laws (and I believe ours doth) and when Laws grow so multiplied, they prove oftner shares than directions and security of the People; I look upon it as the ignorance and weakness of the latter Age (if not worse, the effect of the design of ill-men) that it is grown a general Opinion, that where there is not particular direction in some Acts of Parliament, the Law is defective, as if the common Law had not provided much better, shorter and plainer for the peace and quiet of the Nation, then intricate long and perplex Statutes do, which hath made work for the Lawyers; given power to the Judges, lessened your Lordships power, and in a good measure unhinged the security of the people. My Lord Bishop tells you that your whole Judicature is not in question:

question, but only the privilege of the House of Commons, of their Members not appearing at your Bar: My Lords, were it no more yet for Justice and the peoples sake, you ought not to part with it, how far a Privilege of the House of Commons, their Servants and those they own doth extend, *Westminster Hall* may with grief tell your Lordships and the same privilege of their Members being not sued, must be allowed to your Lordships as well, and what a Salver of Justice you would prove whilst they are Lords for Life, and you for Inheritance, let the World judge, for my part I am willing to come to a conference, whenever the dispute shall begin again, and dare undertake to your Lordships that they have neither President, Reason nor any justifiable pretence to show against us; and therefore my Lords, if you part with this your undoubted Right, merely for asking where will this stop: And my Lords, we are sure it doth not stop here, for they have already (*new ne contradicence*) Voted against your Lordships power of Appeals from any Court of Equity, so that you may plainly see where this Caution and Reason of State means to stop, not on jot short of laying your Judicature aside, for the same reason of Pailing the King money, of not interrupting good Laws (or what ever else) must of necessity avoid a breach upon what score soever, and your Lordships plainly see the breach will be made upon your Judicature, as upon those, so that when your Lordships have appointed a day (a very long day) to consider whether *Dr. Shirley's* Case be not too hot to handle, and when you have done the same for *Sir Nicholas Staunton* (whose Petition I hear is coming in) your Lordships must proceed to a Vote to lay all private business aside for Six Weeks, for that Phrase of private business hath obtained upon this last age, upon that which is your most publick duty and business, namely the Administration of Justice, and I can tell your Lordships besides, the Reason that leads to it, that I have some intelligence of denying such a Vote, for upon the second day of our sitting, at the rising of the Lords House, there came a Gentleman into the Lobby, belonging to a very great Person, and asked in great haste, are the Lords up, have they passed the Vote, and being asked what Vote, he answered of no private business for Six Weeks. My Lords, if this be your business, see where you are, if we are to Post from our Judicature for fear of offending the House of Commons for Six Weeks, that they in the interim may pass the Moneys, and other acceptable Bills, that His Majesty thinks of Importment. - There are too many Wise men of the House of Commons to be laid asleep, and to pass all those acceptable things; and when they have done, to let us be let loose upon them,

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will they not remember this next time there is want of Money, or may they not rather be assured by those Ministers that are among them, (and go on so unanimously with them,) that the King is on their side in this Controversie, and when the publick business is over, our time shall be too short to make a breach, or vindicate our selves in the matter. And then I beg your Lordships, where are you after you have Assented; but the last Session your Right of the Judicature so highly, even in this point and after the House of Commons had gone so highly against you on the other hand, as to post up their Declarations and Remonstrances upon *Westminster Hall* Door, the very next Session after you Post down the very same Causes, and not only those but all Judicature whatsoever. I beseech your Lordships, will not this prove a fatal President and Confession against your selves. It is a Maxime and a Rational one among the Lawyers, that one President where the Case has been contested, is worth a thousand where there hath been no contest. My Lords, in saying this, I humbly suppose I have given a sufficient answer to my Lord Bishops two Questions, whether the appointing of a day to consider what you will do with the Petition, which is of that consequence to your Rights, that it is a doubtful Cause, and infinitely stronger than if it were a new thing to you never heard of before; for it is that very same case, and very same thing desired in that Case that you formerly ordered, and so strangely affected; so that upon time and all the deliberations imaginable, you declare your selves to become doubtful, and you put your selves out of your own hands into that Power you have no reason to believe on your side in this Question. My Lords, I have all the duty imaginable to His Majesty, and should with all submission give way to any thing that he should think of importance to his Affairs: But in this point, it is to alter the Constitution of the Government. If you are asked to lay this aside, and there is no reason of State can be an Argument to your Lordships to turn your selves out of that Interest, you having the Constitution of the Government. It is not only your concern that you maintain your selves in it, but it is the concern of the poorest men in *England*, that you keep your Station. It is your Lordships concern, and that so highly, that I will be bold to say, that the King can give none of requital or recompence for it. What are empty Titles, what is present Power or Riches, or a great Estate wherein I have no fixed or firm Property. It is the Constitution of the Government, and maintaining that secures your Lordships, and every man else in what he hath. The poorest Lord, if the Birth right of Peerage be maintained,

ed, hath a fair prospect before him for himself and his Posterity. But the greatest Title, with the greatest present Power and Riches, is a mean Creature; and maintains this an absolute Monarchy, no otherwise than by servile and low flatteries upon uncertain terms. My Lords, it is not only your Interest by the Interest of the Nation, that you maintain your Rights. For let the House of Commons and Gentry think what they please, there is no Prince that ever Governed without a Nobility or Army, if he will, if you will not have one, you must have another, for the Monarchy cannot long support; or keep it self from tumbling into a Democratical Republick. Your Lordships and the people have the same Cause, and the same Enemies. My Lords, would you be in favour with your King, 'tis a very ill way to it, to put your selves out of a future capacity, to be considerable in his service. I do not find in Story, or in modern experience, but that it is better, and a man is much regarded that is still in a capacity, and opportunity to serve, then he that hath wholly deprived himself of all for his Princes service; and therefore declare that I will serve my Prince as a Peer, but I will not Destroy the Peerage to serve him. My Lords, I have heard of twenty foolish Modis and Expedients to secure the Justice of the Nation; and yet to take this Right from your Lordships, as the King by his Commission appointing Commoners to hear Appeals, or that the Twelve Judges should be the persons, or the persons should be appointed by Act of Parliament, which are all not only to take away your Lordships first Rights that ought not to be altered any more than any other part of his Government, but are in themselves (when well weighed) ridiculous. I must deal freely with your Lordships, these things could never have risen in mens minds, but that there hath been some kind of provocation that hath given the first rise to it. I pray my Lords forgive me, if upon this occasion I put you in mind of committing divers, and the scandal of it. Those droves of Ladies that attend all Causes, twas come to that pass, that men even hired or borrowed of their friends handsome Slaves, or Daughters to deliver their Petitions. And yet for all this, I must say, that your Judgments have been Sacred, unless in one or two Causes, and those are most to that Bench from whence I apprehend most danger. There is one thing I had almost forgot, which is the conjuncture of time, the thing upon which our Reason of State turns. And to my Lords give me leave to say, this be not a time or season for you to vindicate your Priviledges, you must never expect one, I could almost say, that the Harmony

Harmony, good Agreement, and Concord, that is to be prayed for at most other times, may be fatal to us now. We owe the Peace of these two last years, and the dis-engagement from the *French* Interest to the House differing from the Sense and Opinion of *Whitehall*. So at this time of all things in the World, this Nation hath most reason to apprehend dangerous is a general Peace, which cannot now happen without very advantageous termes to the *French*, and disadvantages to the house of *Austria*. We are the Kings Counsellours, and if so, have right to differ and give contrary Counsels to those that are nearest about him: I fear the words advance a general Peace, I am sure I would advise against it, and hinder it at this time by all the ways imaginable. I heartily wish, nothing from you may add Weight and Reputation to those Counsels that would assist the *French*. No money for Ships, nor preparations you can make personal assistance our Prince can have, can secure us from the *French*, if they are at leisure: He is grown the most Potent of us all at Sea, he hath built Twenty four Ships the last year, and hath Thirty more in number than we, besides the advantage that all our Ships are out of order, and his exquisitely provided for, that every Ship hath its particular Store-house. It is incredible the money that he hath bestowed in making Harbours; he makes Nature it self give way to the vastness of his expences. And after all this, shall a Prince so wise, so intent in his Affairs, be thought to make all this preparation to Sail over Land to fall upon the Back of *Hungaria*, and to batter the Walls of *Camaurkie*; or is it possible he should oversee his Interest in Seizing of *Ireland*, a thing so feazable to him. If he be Master of the Seas, as he certainly now is, and which when attained, gives all the Mediterranean, *East* and *West India* Trade, and renders him (both by Situation and exact Harbours perpetual) Master of the Seas without dispute. My Lords, to conclude this point, I fear the Court of *England* is verily mistaken in it; and I do not wish them the Reputation of the Concurrence of the Kingdom, and this out of sincere Loyalty to His Majesty, and Love to my Nation.

My Lords, I have one thing more to trouble you with, and peradventure it's a Consideration of the greatest Weight and Concern, both to your Lordships, and the whole Nation: I have often seen in this House, that the Arguments with strongest Reasons, and most convincing to the Lay Lords in general, have not had the same effect in the Bishops Bench, but that they have unanimously gone against us in matters, that many of us have thought Essential and un-

doubted Rights. And I consider that it is not possible, that men of great Learning, Piety and Reason, as their Lordships should not have the same care of doing right, and the same conviction what is right upon clear reason offered, that other your Lordships have. My Lords, I must necessarily think we differ in Principles, and then it is very easie to apprehend what is the clearest sence to men of my Principle, may not at all perswade, or affect the Consciences of the best men of a different one. I put your Lordships Case, as it is now plainly before us; my Principle is, that the King is King by the Law, by the same Law that the poor man enjoys his Cottage; and so it becomes the concern of every man in *England* that hath his Liberty to maintain, and to defend to his utmost, the King in all his Lawful Rights and Prerogatives. And my Principle is also, that the House of Lords, and the Judicature, and Rights belonging to it, are an Essential part of the Government established by the same Law the King Governing and Administring Justice by his House of Lords, and advising with both his Houses of Parliament in all important matters, is the Government I own, am born under, am obliged to: If ever there should happen in future Ages (which God forbid) a King Governing by an Army without a Parliament, it is a Government I own not, am not obliged to, nor was born under. According to this Principle every honest man, that holds it, must endeavour equally to preserve the frame of the Government in all parts of it; and cannot satisfie his Conscience to give up the Lords House for the Service of the Crown, or to take away the just Rights or Priviledges of the House of Commons to please the Lords. But there is another Principle got into the World, My Lords, that hath not been long there, for Arch-Bishop *Laud* was the first Author that I remember of it, and I cannot find that the Jesuits or any Clergy have owned it, but some of the Episcopal Clergy of our British Isles, it is with us, as it is new; so the most dangerous destructive Doctrine to any Government and Law that ever was: It is the first of the Canons published by the Convocation 1640. That Monarchy is of Divine Right; this Doctrine was then Preached up and maintained by *Sibthorp*, *Munwering*, and others, and of late years by a Book published by Doctor *Sanderfon* Bishop of *Lincoln* under the name of Arch-Bishop *Usher*, and how much it spread among our Dignified Clergy is very easily known. We all agree, that the King and his Government is to be obeyed for Conscience sake, and that the Divine Precepts require not only here but in all parts of the World obedience to Lawful Governours: But this Family

Family are our Kings, and this particular frame of Government is our Lawful Constitution, and obligeth us, as belonging only to the particular Laws of our Country. This *Landian* Doctrine, was that Root that produced the Bill of Test the last Session, and some very perplex Oaths that are of the same nature with that, and yet imposed by several Acts of this Parliament. In a word, if this Doctrine be true, our *Magna Charta* is of no force, our Laws are but Rules among our selves, during the Kings pleasure: Monarchy of Divine Right cannot be bounded nor limited by humane Laws; nay what is more cannot sound it self, and all our claim of Right by the Law, or the Constitution of the Government, all the Jurisdiction and Privileges of this House, all the Rights and Privileges of the House of Commons, all the Properties and Liberties of the people, are to give away not only the Interest, but to the Will and Pleasure of the Crown. And that the best and worthiest of men (holding this Principle) must Vote to deliver up all we have, not only when reason of State, and the separate Interest of the Crown requires it; but when the Will and Pleasure (if known) would have it so; for thus must be a man of that Principle, as the only rule and means of Right and Justice: Therefore my Lords, you see how necessary it is, that our Principles be known, and how fatal it is to us all, that this Principle should be suffered to spread any further.

My Lords, to conclude, your Lordships have seen of what consequence this matter is to you, and that the appointing a day to consider, is, no less than declaring your selves doubtful upon second, and deliberate thoughts, that you put your selves out of your own hands, no more than moral probability of having this Session made a President against you. You see your duty to your selves and the people, and that it is really the Interest of the House of Commons (but may be the inclination of the Court) that you lose the Power of Appeals: But I beg our House may not be *Fets de se*, but your Lordships would take in this Affair, a due course to preserve your selves, and appoint a day this day three weeks for hearing Doctor *Shirleys* Cause, which is my humble motion.



A Speech made in the House of PEERS, by the E--- of S---

November 1678. upon consideration of the State and condition of England, Scotland and Ireland.

My Lords,

You are appointing of the consideration of the State of *England*, to be taken upon a Committee of the whole House some day the next Week; I do not know how, well what I have to say may be received, for I never studied, either to make my Court well, or to be popular, I always speak what I am commanded by the Dictates of the Spirit within me.

There are some other considerations that concern *England* so nearly, that without them you will come far short of safety and quiet at home.

We have a little Sister, and she has no breast, what shall we do for our Sister in the day when she shall be spoken for; if she be a Wall, we will build upon her a Palace of silver, and if she be a Door, we will inclose her with Boards of Cedar, we have several little Sisters without breasts; the *French* Protestant Church, the two Kingdoms of *Ireland* and *Scotland*. The foraign Protestants are a Wall, the only Wall and Defence to *England*; upon it you may build Palaces of silver, glorious Palaces. The protection of the Protestants abroad, is the greatest power and security the Crown of *England* can attain unto, and which can only help to give a Check to the growing greatness of *France*: *Scotland* and *Ireland* are two Doors that let in, either good or mischief upon us. They are much weakened by the Artifice of our cunning Enemy; and we ought to inclose them with
Boards

Bords of Cedar: Popery and Slavery like two Sisters, go hand in hand, sometimes one goes first, and sometimes the other in a Door, but the other is always following close at hand. In *England* Popery was to have brought in Slavery; in *Scotland* Slavery went before, and Popery was to follow. I do not think your Lordships, or the present Parliament have Jurisdiction there, 'tis a Noble and Antient Kingdom, they have an Illustrious Nobility, a Gallant Gentry, a Learned Clergy, and an Industrious Worthy People; but yet we cannot think of *England* as we ought, without reflecting on the condition they are in, they are under the same Prince and influence of the same Favourites and Council, they are hardly dealt with, and can we that are the Richer expect better usage? for 'tis certain that in all absolute Government, the poorest Countries are always most favourably dealt with, when the Antient Nobility and Gentry there cannot enjoy their Royalties, their Shrevedoms, and their Stewarties which they, and their Ancestors have posselt for several Hundred years, but that they are now enjoyned by the Lords of the Council, to make Deputations of their Authority, to such as are their known Enemies; can we expect to enjoy our *Magna Charta* long, under the same persons and administrations of Affairs, if the Council there can Imprison any Noble Man for several years, without bringing him to Tryal, or giving the least reason for what they do, can we expect the same men will preserve the Liberty of the Subject here? I will acknowledge that I am not well vers'd in the particular Laws of *Scotland*,

But this I do know, that all the Northern Countries, have by their Laws, an undoubted and inviolable Right to their Liberties and Properties; yet *Scotland* has out-done all the *Eastern* and *Southern* Countries, in having their Lives, Liberties and Estates Sequestred to the Will and Pleasure of those that Govern. They have lately Plundered and Harast the Richest and Wealthiest Counties of that Kingdom, and brought down the Barbarous Hillanders to devour them, and this without almost a tolerable pretence to do it, but those which design to procure a Rebellion at any rate, which as they managed it, was only prevented by the miraculous Hand of God, or otherwise all the Papists of *England* would have been Armed, and the fairest opportunity given in the just time, for the Execution of that

that bloody and wicked design the Papists had, and it is not possible for any man that duly considers it to think other, but that those Ministers that acted there, were as Guilty in the Plot, as any of the Lords that are in question for it.

My Lords, I am forced to speak this and plainer because till the pressure be fully taken off from *Scotland*, it is not possible for me or any thinking man to believe that good is meant, 'tis hear we must still be upon our Guard, apprehending that the Principle is not changed at Court, and that those men that are still in place and Authority have their influence upon the mind of our Excellent Prince, that he is not nor ever can be that to us which his Nature and goodness would incline him to: I know your Lordships can order nothing in this, but there are those that hear me can put a perfect cure to it, and till that be done this *Scotch* weed is like Dearth in the Pot *Mers in olla*; But there is something which now I consider most immediatly concerns us, their Act of Two and Twenty Thousand Men to be ready to invade us upon all occasions, this I hear the Lords of the Council there have treated (as they do all other Laws) expounded it unto a standing Army of Sixty Thousand Men. I assure we have reason and right to beseech the King, that that Act may be considered in the next Parliament there. I shall say no more of *Scotland* at this time, I am afraid your Lordships will think I have said too much having no concern there, but if a *French* Noble-man should come to dwell in my House and Family, I think it concerns me what he did in *France* for if he were there a Fellow, a Rogue, a Plunderer, I should desire him to live else where, and I hope your Lordships will think fit to do the same thing for your Nation, if you find the same cause.

My Lords, give me leave to speak Two or Three Words concerning our other Sister *Ireland*, thither I hear is sent *Douglasses* Regiment to serve us against the *French*, besides, I am credibly informed the Papists have their Armes restored, and the Protestants are not many of them received to favour being the suspected Party, the Sea Towns as well as the In-lands are full of Papists: That
Kingdom

Kingdom cannot long continue in *English* hands if some better care be not taken of it.

This is in your Power, and there is nothing there but is under your Laws; therefore I beg that this Kingdome at least may be taken into your consideration, together with the State of *England*, for I am sure there can be no safety here, if those doors are not shut up and made safe.

FINIS
